IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

WP(C).No. 3832 of 2006(F)

PETITIONER:

M.S. BABU SACHEENDRAN
S/O. SANKARANARAYANAN, MACHINGAL HOUSE,
AMBADIKKULAM ROAD, OLARI
P.O. PULLAZHI-680 012.

BY ADV. SRI.K.RAMAKUMAR
SRI.T.RAMPRASAD UNNI

RESPONDENTS:
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1. THE KERALA STATE INDUSTRIAL
DEVELOPMENT CORPORATION, CHOICE TOWERS,
MANORAMA JUNCTION, REPRESENTED BY ITS
MANAGING DIRECTOR.

2. SRI. K.M. MOHANDAS, "SHREENIDHI"
SREENAGAR, WESTFORT, THRISSUR-680 004.

R1 BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.RONY J.PALLATH
SRI.N.M.MADHU
SMT.C.DEVIKA RANI KAIMAL
R2 BY ADV. SRI.V.GIRI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF LETTER DATED 23.9.1998 ADDRESSED TO THE HOSPITAL COMPANY BY R1.

EXT.P2 TRUE COPY OF THE PROMOTIONAL AGREEMENT DATED 2.8.2000 ENTERED INTO BETWEEN R1 AND R2

EXT.P3 TRUE COPY OF THE LETTER DATED 5.4.2003 OF THE 2ND RESPONDENT TO R1

EXT.P4 TRUE COPY OF THE LETTER DATED 31.1.2006 ADDRESSED TO R1 BY ONE SHAREHOLDER.

FIRST RESPONDENT'S EXHIBITS:

EXT.R1(a) TRUE PHOTOCOPY OF WRITTEN STATEMENT IN OS NO. 1057 OF 2004 FILED BY THE FIRST RESPONDENT BEFORE THE SUB COURT, THRISSUR DATED 9.1.2005

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 3832 OF 2006

Dated this the 5th day of February, 2007

JUDGMENT

Petitioner is a shareholder of a private limited company and second respondent was the promoter. Under agreement between the second respondent and first respondent, first respondent participated in the equity of the company on condition that second respondent, the promotor, will repurchase the shares with specific rate of interest. Petitioner's case is that loan was availed by the company from the first respondent, and therefore first respondent should not resell the shares to second respondent. Counsel for respondents 1 and 2 submitted that Ext.P2 agreement is between respondents 1 and 2 and not between the first respondent and the company, and so much so shares have to be transferred on repayment of loan amount to the second respondent in terms of Ext.P2 agreement. I do not think this Court should decide the dispute raised by the petitioner about the second respondent's entitlement to repurchase the shares from the financial institution because if the transaction is illegal, it is for the petitioner to approach

the Company Court or Company Law Board. W.P. is accordingly closed.

(C.N.RAMACHANDRAN NAIR)
Judge